

AMENDED IN SENATE APRIL 18, 2013

SENATE BILL

No. 787

Introduced by Senator Berryhill

*(Coauthors: Senators Emmerson, Fuller, Gaines, Huff, Knight,
Nielsen, Walters, and Wyland)*

(Coauthor: Assembly Member Hagman)

February 22, 2013

An act to add Division 13.6 (commencing with Section 21200) to the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 787, as amended, Berryhill. Environmental quality: the Sustainable Environmental Protection Act.

The California Environmental Quality Act—(CEQA), or CEQA, requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report—(EIR), or EIR, on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

Existing law establishes regulations related to numerous environmental issues.

This bill would enact the Sustainable Environmental Protection Act and would specify the environmental review required pursuant to CEQA for projects related to specified environmental topical areas. For a

judicial action or proceeding filed challenging an action taken by a lead agency on the ground of noncompliance with CEQA, the bill would prohibit a cause of action that (1) ~~alleges noncompliance with CEQA based on~~ *relates* any topical area or criteria for which compliance obligations are identified or (2) challenges the environmental document ~~based on noncompliance with CEQA~~ if: (A) the environmental document discloses compliance with applicable environmental law, (B) the project conforms with the use designation, density, or building intensity in an applicable plan, as defined, and (C) the project approval incorporates applicable mitigation requirements into the environmental document. The bill would provide that the Sustainable Environmental Protection Act only applies if the lead agency or project applicant has agreed to provide to the public in a readily accessible electronic format an annual compliance report prepared pursuant to the mitigation monitoring and reporting program.

Because this bill would impose additional duties on local agencies, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Division 13.6 (commencing with Section 21200)
2 is added to the Public Resources Code, to read:

3
4 DIVISION 13.6. SUSTAINABLE ENVIRONMENTAL
5 PROTECTION ACT
6

7 21200. This division shall be known and may be cited as the
8 Sustainable Environmental Protection Act.

9 21200.5. The Legislature finds and declares all of the following:

10 (a) The Legislature adopted the California Environmental
11 Quality Act (Division 13 (commencing with Section 21000))
12 (CEQA) in 1970 in recognition that the maintenance of a quality

1 environment for the people of this state is a matter of statewide
2 concern.

3 (b) Guidelines implementing CEQA have evolved and expanded,
4 and currently provide that project impacts be evaluated based on
5 84 criteria covering the following 17 environmental topical areas:

6 (1) Air quality.

7 (2) Biological resources, including protected species and habitat
8 types.

9 (3) Cultural resources, including archaeological resources.

10 (4) Geology and soils, including seismic and landslide risk.

11 (5) Greenhouse gas emissions.

12 (6) Hazards and hazardous materials, including toxic chemical
13 exposures, brownfields or contaminated site issues, and accident
14 risks.

15 (7) Hydrology and water quality, including flooding and sea
16 level rise.

17 (8) Land use planning, including consistency with land use
18 plans.

19 (9) Public services, including fire and police protection, schools,
20 parks, and other public facilities.

21 (10) Traffic and transportation, including transit, vehicular,
22 bicycle, and pedestrian transportation, emergency access, and
23 roadway safety.

24 (11) Utilities and service systems, including wastewater, water
25 supply, stormwater, landfill, and waste management systems.

26 (12) Aesthetics.

27 (13) Agriculture and forestry resources.

28 (14) Mineral resource availability.

29 (15) Noise.

30 (16) Population and housing growth.

31 (17) Recreational resources.

32 (c) In the years before and the 40 years following the enactment
33 of CEQA, Congress and the Legislature have each adopted more
34 than 100 laws to protect environmental quality in those
35 environmental topical areas required to be independently mitigated
36 under CEQA described in subdivision (b). The Legislature has
37 enacted environmental protection laws that are as or more stringent
38 than federal law, and California environmental laws are often at
39 the cutting edge of environmental protection nationally and even

1 globally. These environmental protection laws, all enacted after
2 1970, include, but are not limited to, the following:

3 (1) Air quality, including air pollution and toxic air
4 contaminants: the federal Clean Air Act (42 U.S.C. Sec. 7401 et
5 seq.) and the federal Acid Precipitation Act of 1980 (42 U.S.C.
6 Sec. 8901 et seq.), and California air quality laws, including
7 Division 26 (commencing with Section 39000) of the Health and
8 Safety Code, the Protect California Air Act of 2003 (Chapter 4.5
9 (commencing with Section 42500) of Part 4 of Division 26 of the
10 Health and Safety Code), the Carl Moyer Memorial Air Quality
11 Standards Attainment Program (Chapter 9 (commencing with
12 Section 44275) of Part 5 of Division 26 of the Health and Safety
13 Code), the California Port Community Air Quality Program
14 (Chapter 9.8 (commencing with Section 44299.80) of Part 5 of
15 Division 26 of the Health and Safety Code), the California Clean
16 Schoolbus Program (Chapter 10 (commencing with Section
17 44299.90) of Part 5 of Division 26 of the Health and Safety Code),
18 the Air Pollution Permit Streamlining Act of 1992 (Article 1.3
19 (commencing with Section 42320) of Chapter 4 of Part 4 of
20 Division 26 of the Health and Safety Code), and the California air
21 pollution control laws, including the Air Toxics “Hot Spots”
22 Information and Assessment Act of 1987 (Part 6 (commencing
23 with Section 44300) of Division 26 of the Health and Safety Code),
24 the Atmospheric Acidity Protection Act of 1988 (Chapter 6
25 (commencing with Section 39900) of Part 2 of Division 26 of the
26 Health and Safety Code), the Connelly-Areias-Chandler Rice Straw
27 Burning Reduction Act of 1991 (Section 41865 of the Health and
28 Safety Code), and the Lewis-Presley Air Quality Management Act
29 (Chapter 5.5 (commencing with Section 40400) of Part 3 of
30 Division 26 of the Health and Safety Code).

31 (2) Biological resources, including protected species and habitat
32 types: the federal Endangered Species Act of 1973 (16 U.S.C. Sec.
33 1531 et seq.), the federal Migratory Bird Treaty Act (16 U.S.C.
34 Sec. 703 et seq.), the federal Bald and Golden Eagle Protection
35 Act (16 U.S.C. Sec. 668), Section 404(b) of the federal Clean
36 Water Act (33 U.S.C. Sec. 1344(b)), the federal Marine Mammal
37 Protection Act of 1972 (16 U.S.C. Sec. 1361 et seq.), the federal
38 Nonindigenous Aquatic Nuisance Prevention and Control Act of
39 1990 (16 U.S.C. Sec. 4701 et seq.), the California Endangered
40 Species Act (Chapter 1.5 (commencing with Section 2050) of

1 Division 3 of the Fish and Game Code), Sections 1602, 3503.5,
2 3511, 3513, and 4700 of the Fish and Game Code, the Oak
3 Woodlands Conservation Act (Article 3.5 (commencing with
4 Section 1360) of Chapter 3 of Division 2 of the Fish and Game
5 Code), Article 3 (commencing with Section 355) of Chapter 3 of
6 Division 1 of the Fish and Game Code, Division 5 (commencing
7 with Section 5000) of the Fish and Game Code, Division 6
8 (commencing with Section 5500) of the Fish and Game Code, and
9 subdivision (e) of Section 65302 of the Government Code.

10 (3) Cultural resources, including archaeological resources:
11 Section 106 of the federal National Historic Preservation Act (16
12 U.S.C. Sec. 470(f)), the federal American Indian Religious
13 Freedom Act (42 U.S.C. Sec. 1996), Section 7050.5 of the Health
14 and Safety Code, and Section 5097.9.

15 (4) Climate change and greenhouse gas emissions: the federal
16 Clean Air Act (42 U.S.C. Sec. 7401 et seq.), the federal Energy
17 Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et
18 seq.), the California Global Warming Solutions Act of 2006
19 (Division 25.5 (commencing with Section 38500) of the Health
20 and Safety Code), Division 26 (commencing with Section 39000)
21 of the Health and Safety Code, the California Alternative and
22 Renewable Fuel, Vehicle Technology, Clean Air, and Carbon
23 Reduction Act of 2007 (Chapter 8.9 (commencing with Section
24 44270) of Part 5 of Division 26 of the Health and Safety Code),
25 the California Energy-Efficient Vehicle Group Purchase Program
26 (Article 1.5 (commencing with Section 43810) of Chapter 4 of
27 Part 5 of Division 26 of the Health and Safety Code), Section
28 43018.5 of the Health and Safety Code, and Chapter 728 of the
29 Statutes of 2008.

30 (5) Hazards and hazardous materials, including toxic chemical
31 exposures, brownfields or contaminated site issues, and chemical
32 accident risks: the federal Comprehensive Environmental
33 Response, Compensation, and Liability Act of 1980 (42 U.S.C.
34 Sec. 9601 et seq.), the federal Resource Conservation and Recovery
35 Act of 1976 (42 U.S.C. Sec. 6901 et seq.), the federal Emergency
36 Planning and Community Right-to-Know Act of 1986 (42 U.S.C.
37 Sec. 11001 et seq.), the federal Pollution Prevention Act of 1990
38 (42 U.S.C. Sec. 13101 et seq.), the federal Oil Pollution Act of
39 1990 (33 U.S.C. Sec. 2701 et seq.), the Federal Insecticide,
40 Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.), the

1 federal Toxic Substances Control Act (15 U.S.C. Sec. 2601 et
2 seq.), the federal Asbestos Hazard Emergency Response Act of
3 1986 (15 U.S.C. Sec. 2641 et seq.), the federal Lead-Based Paint
4 Exposure Reduction Act (15 U.S.C. Sec. 2681 et seq.), the federal
5 Low-Level Radioactive Waste Policy Act (42 U.S.C. Sec. 2121b
6 et seq.), the federal Lead Contamination Control Act of 1988 (42
7 U.S.C. Sec. 300j-21 et seq.), the Hazardous Waste Control Law
8 (Chapter 6.5 (commencing with Section 25100) of Division 20 of
9 the Health and Safety Code), Chapter 6.7 (commencing with
10 Section 25280) of Division 20 of the Health and Safety Code,
11 Sections 25356.1.5 and 25395.94 of the Health and Safety Code,
12 Chapter 6.95 (commencing with Section 25500) of Division 20 of
13 the Health and Safety Code, the Elder California Pipeline Safety
14 Act of 1981 (Chapter 5.5 (commencing with Section 51010) of
15 Part 1 of Division 1 of Title 5 of the Government Code), and the
16 Natural Gas Pipeline Safety Act of 2011 (Article 2 (commencing
17 with Section 955) of Chapter 4.5 of Part 1 of Division 1 of the
18 Public Utilities Code).

19 (6) Hydrology and water quality, including flooding and sea
20 level rise: the federal Water Pollution Control Act (33 U.S.C. Sec.
21 1251 et seq.), the National Contaminated Sediment Assessment
22 and Management Act (33 U.S.C. Sec. 1271 et seq.), the federal
23 Safe Drinking Water Act (33 U.S.C. Sec. 300f et seq.), Section
24 1602 of the Fish and Game Code, the Integrated Regional Water
25 Management Planning Act (Part 2.2 (commencing with Section
26 10530) of Division 6 of the Water Code), the Stormwater Resource
27 Planning Act (Part 2.3 (commencing with Section 10560) of
28 Division 6 of the Water Code), the Porter-Cologne Water Quality
29 Control Act (Division 7 (commencing with Section 13000) of the
30 Water Code), the Safe Drinking Water and Toxic Enforcement
31 Act of 1986 (Chapter 6.6 (commencing with Section 25249.5) of
32 Division 20 of the Health and Safety Code), the Urban Water
33 Management Planning Act (Part 2.6 (commencing with Section
34 10610) of Division 6 of the Water Code), Part 2.10 (commencing
35 with Section 10910) of Division 6 of the Water Code, the Water
36 Conservation in Landscaping Act (Article 10.8 (commencing with
37 Section 65591) of Chapter 3 of Division 1 of Title 7 of the
38 Government Code), the Storm Water Enforcement Act of 1998
39 (Chapter 5.9 (commencing with Section 13399.25) of Division 7
40 of the Water Code), the Water Recycling Law (Chapter 7

1 (commencing with Section 13500) of Division 7 of the Water
2 Code), Chapter 7.3 (commencing with Section 13560) of Division
3 7 of the Water Code, and Part 2.75 (commencing with Section
4 10750) of Division 6 of the Water Code.

5 (7) Land use planning including consistency with land use plans:
6 the federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec.
7 1451 et seq.), the Federal Land Policy and Management Act of
8 1976 (43 U.S.C. Sec. 1701 et seq.), the federal Forest and
9 Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C.
10 Secs. 1600 to 1614, incl., and 1641 to 1649, incl.), the National
11 Forest Management Act of 1976 (16 U.S.C. Secs. 1600 and 1611
12 to 1614, incl.), the Planning and Zoning Law (Title 7 (commencing
13 with Section 65000) of the Government Code), the Subdivision
14 Map Act (Division 2 (commencing with Section 66410) of Title
15 7 of the Government Code), the California Coastal Act of 1976
16 (Division 20 (commencing with Section 30000) of this code), the
17 Cortese-Knox-Hertzberg Local Government Reorganization Act
18 of 2000 (Part 1 (commencing with Section 56000) of Division 3
19 of Title 5 of the Government Code), the California Green Building
20 Standards Code (Part 11 of Title 24 of the California Code of
21 Regulations), and the California Building Code (Part 2 of Title 24
22 of the California Code of Regulations).

23 (8) Public services, including fire and police protection, schools,
24 parks, solid waste, recycling, and other public facilities: Chapter
25 2 (commencing with Section 17921) of Part 1.5 of Division 13 of
26 the Health and Safety Code, Sections 65996, 65997, and 66477 of
27 the Government Code, Title 7.3 (commencing with Section 66799)
28 of the Government Code, the Used Oil Recycling Act (Article 9
29 (commencing with Section 3460) of Chapter 1 of Division 3 of
30 this code), the California Beverage Container Recycling and Litter
31 Reduction Act (Division 12.1 (commencing with Section 14500),
32 Division 12.3 (commencing with Section 16000), Division 12.4
33 (commencing with Section 16050), and Division 12.7 (commencing
34 with Section 18000) of this code), the Fiberglass Recycled Content
35 Act of 1991 (Division 12.9 (commencing with Section 19500) of
36 this code), the California Integrated Waste Management Act of
37 1989 (Division 30 (commencing with Section 40000) of this code),
38 the California Fire Code (Part 9 of Title 24 of the California Code
39 of Regulations), and Sections 1270 and 6773 of Title 8 of the
40 California Code of Regulations.

1 (9) Traffic and transportation, including transit, vehicular,
2 bicycle, and pedestrian transportation, emergency access, and
3 roadway safety: the federal Safe, Accountable, Flexible, Efficient
4 Transportation Equity Act: A Legacy for Users (23 U.S.C. Sec.
5 101 et seq.), Titles 23 and 49 of the United States Code, and
6 Chapter 2.3 (commencing with Section 65070), Chapter 2.5
7 (commencing with Section 65080), and Chapter 2.8 (commencing
8 with Section 65088) of Division 1 of Title 7 of the Government
9 Code.

10 (10) Utilities and service systems, including wastewater, water
11 supply, stormwater, landfill and waste management systems: Part
12 2.10 (commencing with Section 10910) of Division 6 of the Water
13 Code, Part 2.55 (commencing with Section 10608) of Division 6
14 of the Water Code, the Urban Water Management Planning Act
15 (Part 2.6 (commencing with Section 10610) of Division 6 of the
16 Water Code), and the Water Conservation in Landscaping Act
17 (Article 10.8 (commencing with Section 65591) of Chapter 3 of
18 Division 1 of Title 7 of the Government Code).

19 (11) Aesthetics: the federal Highway Beautification Act of 1965
20 (23 U.S.C. Sec. 131), Article 2.5 (commencing with Section 260)
21 of Chapter 1 of Division 1 of the Streets and Highways Code, the
22 Outdoor Advertising Act (Chapter 2 (commencing with Section
23 5200) of Division 3 of the Business and Professions Code), and
24 subdivision (e) of Section 656302 of the Government Code.

25 (12) Agriculture: the federal Soil and Water Conservation Act
26 of 1977 (16 U.S.C. Sec. 2001 et seq.) and the Williamson Act
27 (Chapter 7 (commencing with Section 51200) of Part 1 of Division
28 1 of Title 5 of the Government Code); and forestry resources: the
29 Z'Berg-Nejedly Forest Practice Act of 1973 (Chapter 8
30 (commencing with Section 4511) of Part 2 of Division 4) and
31 corresponding regulations (Chapter 4 (commencing with Section
32 895), Chapter 4.5 (commencing with Section 1115), and Chapter
33 10 (commencing with Section 1600) of Division 1.5 of Title 14
34 of the California Code of Regulations), Protection of Forest, Range
35 and Forage Lands (Part 2 (commencing with Section 4101) of
36 Division 4), and the Wild and Scenic Rivers Act (Chapter 1.4
37 (commencing with Section 5093.50) of Division 5).

38 (13) Mineral resources: the federal Surface Mining Control and
39 Reclamation Act of 1977 (30 U.S.C. Sec. 1201 et seq.) and the

1 Surface Mining and Reclamation Act of 1975 (Chapter 9
2 (commencing with Section 2710) of Division 2).

3 (14) Noise: the federal Noise Control Act of 1972 (43 U.S.C.
4 Sec. 4901 et seq.), the federal Aviation Safety and Noise
5 Abatement Act of 1979 (49 U.S.C. Sec. 47501 et seq.), Article 5
6 (commencing with Section 65300) of Chapter 3 of Division 1 of
7 Title 7 of the Government Code, the California Noise Insulation
8 Standards (Part 2 of Title 24 of the California Code of Regulations),
9 the California Employee Noise Exposure Limits (Article 105
10 (commencing with Section 5095) of Group 15 of Subchapter 7 of
11 Chapter 4 of Division 1 of Title 8 of the California Code of
12 Regulations).

13 (d) Over the same 40-year period since the enactment of CEQA,
14 the Legislature has also adopted environmental protection laws
15 affecting three topical areas for which the United States Congress
16 has not taken any action to adopt federal environmental law of
17 general application in California, as follows:

18 (1) Geology and soils, including seismic and landslide risk: the
19 Alquist-Priolo Earthquake Fault Zoning Act (Chapter 7.5
20 (commencing with Section 2621) of Division 2 of this code), the
21 Seismic Hazards Mapping Act (Chapter 7.8 (commencing with
22 Section 2690) of Division 2 of this code), the California Building
23 Code (Title 24 of the California Code of Regulations), Chapter
24 12.2 (commencing with Section 8875) of Division 1 of Title 2 of
25 the Government Code, subdivision (g) of Section 65302 of the
26 Government Code, and the Surface Mining and Reclamation Act
27 of 1975 (Chapter 9 (commencing with Section 2710) of Division
28 2 of this code).

29 (2) Population and housing growth: Article 10.6 (commencing
30 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
31 Government Code and Chapter 13 (commencing with Section
32 75120) of Division 43.

33 (3) Recreational resources: Section 66477 of the Government
34 Code and the Public Park Preservation Act of 1971 (Chapter 2.5
35 (commencing with Section 5400) of Division 5 of this code).

36 (e) When enacting CEQA and subsequent amendments, the
37 Legislature declared its intent to ensure that all public agencies
38 give major consideration to preventing environmental damage,
39 while providing a decent home and satisfying living environment
40 for every Californian and to create and maintain conditions under

1 which humankind and nature can exist in productive harmony to
2 fulfill the social and economic requirements of present and future
3 generations.

4 (f) Environmental laws, including implementing plans,
5 programs, regulations, and permit requirements that have been
6 adopted since the 1970 enactment of CEQA, are designed to ensure
7 California continues as a national and international leader in
8 protecting the environment, health, safety, and welfare of California
9 and those within its borders.

10 (1) At the local level, the California Constitution and California
11 law require cities, counties, and cities and counties to adopt land
12 use plans in order to develop and implement an orderly planning
13 process for protecting and enhancing the quality of the community
14 and the environment while providing for jobs, revenues,
15 recreational and other services, housing, and other community
16 needs.

17 (2) Pursuant to Chapter 728 of the Statutes of 2008, metropolitan
18 planning organizations (MPOs) are directed to prepare sustainable
19 communities strategies (SCSs) to reduce regional greenhouse gas
20 emissions from the land use and transportation sector. Additionally,
21 many cities and counties have adopted, or are in the process of
22 adopting, land use plans such as general plan updates, zoning code
23 revisions, specific plans, community plans, and area plans to
24 encourage both renewable energy production and higher density,
25 transit-oriented development patterns.

26 (3) In response to the challenges of climate change and in
27 furtherance of energy independence and security, the Legislature
28 has established significant new mandates for the development and
29 use of renewable energy and higher density development patterns
30 that promote transit utilization and conserve water and energy
31 resources.

32 (4) With recent mandates and policies encouraging denser
33 development patterns to promote transit, energy and water
34 efficiency, job and housing growth is prioritized in areas that are
35 already well populated and include urbanized conditions such as
36 regional freeway congestion and local roadway congestion, and
37 neighborhood-scale challenges such as parking and evolving
38 aesthetic values. By directing growth into higher density,
39 transit-oriented development patterns, SCS and local land use plan
40 and zoning code adoption and implementation generally cause

1 significant unavoidable density-related adverse environmental
2 impacts under CEQA, such as traffic and parking and related air
3 quality emissions. Additionally, infrastructure and services in many
4 urbanized areas are challenged and require upgrades that are
5 beyond the fiscal ability or jurisdictional authority, or both, of a
6 city or county, resulting in findings of additional significant
7 unavoidable impacts for CEQA purposes. Impacts from higher
8 density development land use plans and zoning code revisions
9 (urbanization impacts) are evaluated and in many instances
10 approved by decisionmakers as an appropriate policy decision
11 based on climate, energy security, agricultural or open-space
12 preservation, or other inherent policy choices that are informed by
13 the EIR's environmental analysis and public disclosure process.

14 (g) Environmental laws and regulations identify compliance
15 obligations that apply uniformly to similarly situated projects and
16 activities, and provide critical environmental protections that go
17 well beyond the ad hoc review process created by CEQA.
18 Environmental laws and regulations identify compliance
19 obligations of general applicability and thereby provide greater
20 clarity than the project-by-project ad hoc review process that was
21 created for CEQA in 1970.

22 (h) CEQA requires a public and environmental review process
23 for the review and adoption of land use plans and zoning code
24 revisions, including requirements to avoid or minimize the
25 significant environmental impacts of land use plan and zoning
26 code implementation. For plan or zoning code changes for which
27 an environmental impact report (EIR) was prepared and certified,
28 CEQA mandates inclusion of mitigation measures and alternatives
29 to avoid or minimize significant unavoidable impacts.

30 (i) *Despite these stringent environmental laws and local*
31 *planning requirements, public and private projects throughout the*
32 *state are commonly challenged under CEQA even when a project*
33 *meets all other environmental standards of existing laws.*

34 (i)

35 (j) The court, in *Friends of Westwood v. City of Los Angeles*
36 (1987) 191 Cal.App.3d 259, determined that the CEQA process
37 is required even for projects that complied with the density, use
38 type, and intensity restrictions in applicable land use plans and the
39 zoning code.

40 (j)

1 (k) Applying CEQA's existing requirements at a project-specific
2 level can often undermine the policy goals and objectives of
3 applicable land use plans. A project that brings higher density to
4 an area, with corresponding jobs, revenues, or housing, also brings
5 traffic and parking demands, with associated air quality and other
6 impacts, as well as a host of other urbanized effects as disclosed
7 in the land use plan EIR. Where urbanized effects have been
8 mitigated on the plan level to the extent feasible, the reanalysis of
9 these impacts at the project level can be problematic.

10 ~~(k)~~

11 (l) Duplicative CEQA review of projects that comply with the
12 density, use type, and intensity requirements of land use plans that
13 have already undergone an EIR process was not intended by the
14 Legislature and creates unacceptable delays and uncertainties in
15 the plan implementation process. Avoidance of duplicative review
16 will reduce litigation and the considerable political uncertainty
17 that has resulted for communities and project proponents who
18 attempt to implement land use plans, notwithstanding previously
19 disclosed significant unavoidable urbanized impacts.

20 ~~(l)~~

21 (m) Development of projects consistent with the density, use
22 type, and intensity requirements of land use plans should be
23 encouraged by avoiding duplicative environmental review of those
24 projects if project approval is conditioned on implementing
25 applicable mitigation measures included in the EIR prepared for
26 the applicable land use plans.

27 ~~(m)~~

28 (n) Public agencies are subject to public notice and disclosure
29 requirements when approving projects, including the Ralph M.
30 Brown Act (Chapter 9 (commencing with Section 54950) of Part
31 1 of Division 2 of Title 5 of the Government Code) and the
32 Bagley-Keene Open Meeting Act (Article 9 (commencing with
33 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
34 the Government Code), and are also authorized to require
35 comprehensive project applications and to condition project
36 approvals under their police powers and other laws, not including
37 CEQA.

38 ~~(n)~~

39 (o) Public agencies are encouraged to create and maintain
40 electronic records where feasible to reduce paperwork and increase

1 efficiency. The prompt commencement and resolution of litigation
2 filed under this division and CEQA is dependent upon the prompt
3 availability of the respondent public agency’s record of proceedings
4 for the challenged agency action. There are no practical means by
5 which records of proceedings which are predominantly maintained
6 in electronic format can be readily accessed, organized, and
7 produced by any party other than the respondent public agency.
8 Where all or most of the respondent agency’s record of proceeding
9 is maintained by the respondent agency or its designee in an
10 electronic format, timely production of the record of proceedings
11 requires that the record be prepared by the respondent agency.

12 ~~(o)~~

13 (p) In enacting this division, it is the intent of the Legislature
14 to further the purposes of CEQA by integrating environmental and
15 planning laws and regulations adopted over the last 40 years, while
16 avoiding the sometimes conflicting and often duplicative ad hoc
17 environmental review and mitigation requirements under CEQA.

18 ~~(p)~~

19 (q) In enacting this division, it is also the intent of the
20 Legislature to continue to foster public disclosure and informed
21 public participation of the environmental consequences of projects.

22 ~~(q)~~

23 (r) In enacting this division, it is the intent of the Legislature to
24 preserve the authority of a lead agency, consistent with the
25 jurisdiction and authority of that agency, to disapprove projects
26 or to condition approvals of projects on terms that may require
27 more stringent environmental protections or project approval
28 conditions than those required by applicable environmental or
29 planning laws.

30 (s) *In enacting this division, it is the intent of the Legislature to*
31 *modernize CEQA to conform to California’s comprehensive*
32 *environmental laws and regulations to produce thoughtful CEQA*
33 *reforms that can preserve the law’s original intent of environmental*
34 *protection while eliminating duplicative environmental analysis*
35 *and providing a higher level of certainty for project proponents.*

36 21201. For the purposes of this division, the following
37 definitions shall apply:

38 (a) “Applicable environmental law” is a law related to an
39 environmental topical area listed in subdivision (b) of Section

1 21200.5 that is relevant to a project and that does any of the
2 following:

3 (1) Includes a policy determination, or directs or authorizes the
4 adoption by an implementing agency of regulations, plans, or
5 permits, licenses, or authorization applications and approval
6 processing procedure and practices to implement that policy
7 determination, regarding a standard applicable to a topical area
8 requiring analysis and mitigation under CEQA.

9 (2) Identifies quantitative and qualitative analytical methods or
10 approaches, or directs or authorizes the adoption by an
11 implementing agency of regulations, plans, or permits, licenses,
12 or authorization applications and approval processing procedures
13 and practices that include those analytical methods or approaches,
14 regarding a standard.

15 (3) Identifies required or permissible practices for mitigating
16 or minimizing adverse impacts to a topical area requiring analysis
17 and mitigation under CEQA, or directs or authorizes the adoption
18 by an implementing agency of regulations or plans, or directs or
19 authorizes an implementing agency to review and approve permits,
20 licenses, or authorization applications that include avoidance,
21 minimization, mitigation, conditions or other requirements to
22 achieve a standard applicable to a topical area requiring analysis
23 and mitigation under CEQA.

24 (b) “Applicable plan” means a planning document for which
25 an environmental impact report, supplemental environmental
26 impact report, or environmental impact report addendum was
27 certified, including either of the following:

28 (1) A land use plan, such as a general plan, specific plan, or
29 sustainable communities strategies adopted by a city, county, city
30 and county, metropolitan planning organization, or other local,
31 regional, or state agency that establishes use designations, densities,
32 and building intensities.

33 (2) A plan to improve or maintain public facilities or
34 infrastructure to be funded in whole or in part by public funds and
35 which has been adopted by a local, regional, or state agency.

36 (c) “Applicable mitigation requirements” means all mitigation
37 measures included in an applicable plan with the exception of
38 mitigation measures the lead agency determines, based on
39 substantial evidence, are not required to mitigate a potentially
40 significant impact of a proposed project.

1 (d) “CEQA” means the California Environmental Quality Act
2 (Division 13 (commencing with Section 21000)).

3 (e) “Implementing agency” means any state or federal agency,
4 board, or commission, any county, city and county, city, regional
5 agency, public district, or other political subdivision.

6 (f) “Standard” means a quantitative or qualitative level of
7 protection, preservation, enhancement, pollution, reduction,
8 avoidance, or other measure for a topical area requiring analysis
9 and mitigation under CEQA.

10 21202. (a) An environmental document prepared pursuant to
11 CEQA shall disclose all applicable environmental laws.

12 (1) An environmental document prepared under CEQA and that
13 discloses an applicable environmental law described in paragraph
14 (1) of subdivision (a) of Section 21201 shall disclose the applicable
15 compliance requirements of that law, and compliance with the
16 applicable standards for impacts that occur or might occur as a
17 result of approval of the project shall be the exclusive means of
18 evaluating and mitigating environmental impacts under CEQA
19 regarding the subject of that law, notwithstanding any other
20 provision of law.

21 (2) An environmental document prepared under CEQA and that
22 discloses an applicable environmental law described in paragraph
23 (2) of subdivision (a) of Section 21201 shall disclose the applicable
24 analytical methods or approaches, and the disclosure of those
25 analytical methods or approaches shall be the exclusive means of
26 evaluating potential project impacts under CEQA regarding the
27 relevant law, notwithstanding any other provision of law.

28 (3) An environmental document prepared under CEQA and that
29 discloses an applicable environmental law described in paragraph
30 (3) of subdivision (a) of Section 21201 shall disclose the applicable
31 mitigation and minimization methods or approaches typically used
32 by implementing agencies as part of their review and approval or
33 permits, licenses, or authorization applications, and compliance
34 with mitigation and minimization practices shall be the exclusive
35 means of mitigating environmental impacts under CEQA regarding
36 the subject of the relevant law, notwithstanding any other provision
37 of law.

38 (b) The disclosure obligations set forth in this section are
39 intended to foster informed environmental review and public
40 participation in the environmental and public review process

1 required by CEQA or other applicable laws and regulations, such
2 as the Ralph M. Brown Act (Chapter 9 (commencing with Section
3 54950) of Part 1 of Division 2 of Title 5 of the Government Code)
4 and the Bagley-Keene Open Meeting Act (Article 9 (commencing
5 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title
6 2 of the Government Code).

7 21203. (a) A cause of action shall not be commenced under
8 Section 21167 for noncompliance with CEQA under either of the
9 following circumstances:

10 (1) If the cause of action relates to an environmental topical
11 area listed in subdivision (b) of Section 21200.5 and the
12 environmental document discloses compliance with any applicable
13 environmental law pertaining to a topical area or any regulation,
14 plan, permit, license, or authorization application and approval
15 processing procedures adopted by an implementing agency as
16 directed or authorized by that applicable environmental law.

17 (2) If the environmental document for the project discloses
18 compliance with applicable environmental law pertaining to a
19 topical area or any regulation, plan, permit, license, or authorization
20 application and approval processing procedures adopted by an
21 implementing agency as directed or authorized by that applicable
22 environmental law; the project conforms to the use designation,
23 density, or building intensity in a land use plan or was included in
24 any other applicable plan identified in subdivision (b) of Section
25 21201; and the lead agency incorporates applicable mitigation
26 requirements included in the certified environmental impact report,
27 supplemental environmental impact report, or environmental
28 impact report addendum prepared for the applicable plan into the
29 environmental document prepared for the project.

30 (b) This section does not prohibit a cause of action otherwise
31 authorized by law to enforce compliance with any other existing
32 local, state, and federal law, regulation, or applicable plan.

33 21204. (a) Except for projects with potentially significant
34 aesthetic impacts on an official state scenic highway established
35 pursuant to section 262 of the Streets and Highways Code, a lead
36 agency shall not be required to evaluate aesthetics pursuant to
37 CEQA or this division, and the lead agency shall not be required
38 to make findings pursuant to subdivision (a) of Section 21081 on
39 or relating to aesthetic impacts.

1 (b) This section does not change the authority of a lead agency
2 to consider aesthetic issues and to require mitigation or avoidance
3 of adverse aesthetic impacts pursuant to discretionary powers
4 provided by laws other than CEQA or this division.

5 21204.5. This division does not modify the obligation of a lead
6 agency to evaluate the potential for a project to effect Native
7 American resources and to comply with Section 5097.98, including
8 the obligation to discuss and confer with the appropriate Native
9 Americans, as identified by the Native American Heritage
10 Commission and the obligation to avoid, mitigate, and minimize
11 adverse impacts to significant Native American resources.

12 21205. This division applies only to projects for which the lead
13 agency or applicant has agreed to provide to the public in a readily
14 accessible electronic format an annual compliance report prepared
15 pursuant to the mitigation monitoring and reporting program
16 required by paragraph (1) of subdivision (a) of Section 21081.6.

17 21206. This division does not preclude any state agency, board,
18 or commission, or any city, county, city and county, regional
19 agency, public district, redevelopment agency, or other political
20 subdivision from requiring information or analysis of the project
21 under consideration, or imposing conditions of approval for that
22 project, under laws and regulations other than this division and
23 CEQA.

24 21207. (a) An environmental document, prepared pursuant to
25 CEQA, shall be required to consider only those environmental
26 topical areas listed in subdivision (b) of Section 21200.5 and only
27 to the extent those environmental topical areas are relevant to the
28 project.

29 (b) Subdivision (b) of Section 21200.5 is not intended to affirm,
30 reject, or otherwise affect court decisions concerning the
31 consistency of the guidelines provisions within the provisions of
32 CEQA.

33 (c) This section does not preclude a lead agency from modifying
34 or updating its analytical methodologies for those topical areas.

35 SEC. 2. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 a local agency or school district has the authority to levy service
38 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

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